STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

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November 21, 2001

Mr. David P. Boergers, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Dear Mr. Boergers:

COMMENTS BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME ON THE DRAFT NEPA SCOPING DOCUMENT 1 AND CEQA NOTICE OF PREPARATION, OROVILLE FACILITIES RELICENSING, FERC PROJECT NO. 2100-116

The California Department of Fish and Game (DFG) has reviewed the Draft NEPA Scoping Document 1 and CEQA Notice of Preparation for the relicensing of the Oroville Project, FERC Project No. 2100 circulated on September 27, 2001. DFG staff has been involved in the Oroville Alternate Licensing Process (ALP) since its inception on June 29, 2000. We have participated in all levels of the process: Plenary Group, Work Groups and Task Forces. DFG is very appreciative of Department of Water Resource (DWR) efforts to address fairly all relicensing concerns expressed by agencies and citizens. However, the process has become overwhelming. The number of relicensing concerns (issue statements) and the volume and complexity of study plans is making it difficult for DFG to track our concerns. Therefore, we are resubmitting the list of relicensing concerns which originally were submitted in a letter to Mr. Henry M. Ramirez, Chief, Project Power Planning Branch on February 16, 2001 (February 16, 2001 letter enclosed). Those concerns address the protection of public trust resources associated with Lake Oroville, with the Feather River downstream of Lake Oroville, and include the operation of the Feather River Mitigation Hatchery and management of the Oroville Wildlife Area.

One DFG relicensing issue that appears to have been lost is our concern for funding of the Oroville Wildlife Area Wild Area (OWA). Under a 1968 agreement between the Department of Water Resources and DFG, the OWA was established for the purpose of creating and maintaining a public fish and wildlife management area. Prior to the construction of Oroville Dam, the State acquired title to the borrow area (OWA) under provisions of the Davis–Dolwig Act (Water Resource Development Bond Act), Sections 11900-11925 of the Water Code, for the purpose of creating and maintaining a public fish and wildlife management area and providing for associated recreation, and pursuant to Section 11575 et seq. of the Water Code for the purpose of the water project as defined in Sections 11100 et seq. and 12930 et seq. of the Water Code. Under the Davis–Dolwig Act, it is the policy of this State that recreation and S-03-01

enhancement of fish and wildlife resources are among the purposes of the state water project (Section 11900), that acquisition of real property for such purposes be planned (Section 11900), and that continued funding for operation and maintenance of such fish and wildlife recreation features be provided (Section 11901). However, to date no funding as authorized under the Davis–Dolwig Act has been provided for operation and maintenance at the OWA. Funding for the operation and maintenance of the OWA has come entirely from the Fish and Wildlife Preservation Fund (Hunting Licence Fees) and from various state and federal allocations. Annual funding now received is only sufficient to cover O&M costs associated with the heavy recreational use. Under existing funding, DFG is unable to manage, create or enhance the wildlife habitat as expected when the OWA was established. Therefore, the DFG respectfully resubmits our request that the Oroville Facilities ALP address the need for additional funding for operation of the OWA (July 2, 2001 memo enclosed). S-03-02

Other comments on the Draft NEPA Scoping Document 1 and CEQA Notice of Preparation for the relicensing of the Oroville Project, FERC Project No. 2100 are as follows:

Page v and Page 1: Executive Summary and Introduction states that the Oroville Facilities operate under a license issued by the Federal Energy Regulatory Commission. The final scoping document should define if the term "facility" refers to just the hydropower operation or to the entire Oroville/State Water Project complex. S-03-03

Page 3: Figure 1, Highway 99 between Yuba City and Chico is labeled Highway 70. S-03-04

Page 5: The ALP process offers the public more than three formal comment opportunities. Formal opportunities to comment will also occur after the SD2 is published and during the State Water Resources Control Board's 401 Certification Process. S-03-05

Page 20: The Department of Water Resources (DWR) should not eliminate "project retirement or issuance of a non-power license" from its range of alternatives considered in the environmental analysis. On page 20 of SD1, DWR states that they are not going to consider "project retirement or issuance of a non-power license" in their evaluation of project alternatives. Although DFG is not suggesting that any specific component of the project should be decommissioned, it is not appropriate for DWR to eliminate this alternative prior to a thorough evaluation of the beneficial or adverse effects of the project. The Federal Energy Regulatory Commission's "Guidelines for Preparing Environmental Assessments" provides detailed information on evaluating project retirement as a relicensing alternative. S-03-06

Resources Issues-Appendix B: If upstream fish passage facilities are S-03-07

evaluated at project structures, then DWR should also investigate fish screens and other facilities that provide downstream passage. For example, if the Fish Barrier Dam and the Thermalito Diversion Dam are equipped with fish ladders, then fish screens may be needed at the intake for the Thermalito Diversion Dam powerhouse and along the Power Canal. S-03-07

Resources Issues-Appendix B: In its evaluation of operational and engineering alternatives to meet downstream temperature requirements (as identified in Issue Statement E12), DWR should consider alternatives that would allow cooler waters from Lake Oroville to be directed to the Low Flow Channel while warmer waters are directed to the Thermalito Forebay. S-03-08

Thank you for your consideration. If you have questions about our comments, please contact Mike Meinz, Staff Environmental Scientist, at (916) 358-2853 or mmeinz@dfg.ca.gov.

Sincerely,

for Larry Eng, Ph.D.
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